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FEDERAL COMMUNICATIONS COMMISSION
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AARON P. SHAINIS
202-857-2942

LEE J. PELTZMAN
202-857-2943

December 14, 1993

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

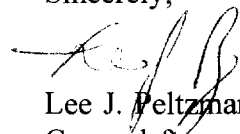
Re: Amendment of Section 73.202(b)
FM Table of Allotments
(Robstown and Gregory, Texas)

Dear Mr. Caton:

Transmitted herewith, on behalf of Cotton Broadcasting, licensee of Station KMIQ(FM), Robstown, Texas, is an original and four (4) copies of is "Petition for Rule Making" in the above-referenced matter.

Should questions arise concerning this matter, please communicate with this office.

Sincerely,



Lee J. Peltzman
Counsel for

COTTON BROADCASTING

Enclosure

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARYBefore The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of:)	
)	
Amendment of Section 73.202(b))	MM DOCKET NO.
FM Table of Allotments)	RM-
(Robstown and Gregory, Texas))	

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

PETITION FOR RULE MAKING

Cotton Broadcasting ("Cotton"), licensee of Station KMIQ(FM), Robstown, Texas, by its attorney, hereby respectfully requests that Section 73.202(b) of the Commission's rules be amended as follows:

<u>Community</u>	<u>Present</u>	<u>Channel No.</u> <u>Proposed</u>
Gregory, Texas	283A	----
Robstown, Texas	260C1, 286A	260C1, 283C3

Cotton additionally requests the concurrent modification of its license for Station KMIQ(FM) to specify operation on Channel 283C3. In support whereof, the following is submitted:

The allocation of Channel 283C3 at Robstown, Texas, can be made in accordance with the Commission's minimum distance separation and principal community coverage requirements with a site restriction of 16.4 km if Channel 283A at Gregory, Texas, is deleted. Robstown is a significant community and merits an additional higher power station. Its 1990 population is 12,468 persons. Clearly, the public interest would be advanced by the allotment of an additional wide coverage area service to Robstown.

On the other hand, the allotment of Channel 283A to Gregory, Texas, was made in Report and Order, MM Docket No. 87-396, effective September 26, 1988, and has never been

implemented. Five years have passed since that effective date, yet no Gregory station has ever been constructed. In fact, a construction permit for Gregory was cancelled by the Commission on December 16, 1992.^{1/} With the deletion of Channel 283A at Gregory from the Commission's FM Table of Allotments, that channel is now considered vacant, meaning that Channel 283C3 may be assigned to Robstown, a community five times the size of Gregory, and the license for Station KMIQ(FM) modified accordingly. The Commission has previously deleted FM channels to accommodate upgrades. See e.g., Cleveland and Ebenezer, Mississippi, 8 FCC Rcd. 2739 (1993); Northport, Alabama, and Macon, Mississippi, 8 FCC Rcd. 2161 (1993).

Accordingly, for the reasons stated above, Cotton requests that the Commission adopt this petition to delete Channel 283A at Gregory, Texas, and substitute Channel 283C3 for 286A at Robstown, Texas. In the event Channel 283C3 is allotted to Robstown, Cotton will promptly file an application for a construction permit, and, if its application is granted, will immediately construct its station and commence broadcasting.

Respectfully submitted,

COTTON BROADCASTING

By: _____

Lee J. Peltzman
Its Attorney

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Suite 500
1255 23rd Street, N. W.
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202/857-2946

December 14, 1993

^{1/} Given the proximity of Gregory to Robstown, it is quite possible that a Class A allotment at Gregory would never be economically viable. The Commission had recognized the increased competition and economic hardships among stations in radio markets. See Cleveland and Ebenezer, Mississippi, DA 93-1373, released December 13, 1993, para. 7.

bcc: Mr. Carlos Lopez w/enclosure

ORIGINAL

TECHNICAL STATEMENT IN SUPPORT
OF PROPOSED RULE MAKING TO
AMEND §73.202(b), FM TABLE OF ALLOTMENTS

on behalf of
COTTON BROADCASTING
KMIQ RADIO
ROBSTOWN, TEXAS

DECEMBER, 1993

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WILLOUGHBY & VOSS

BROADCAST TECHNICAL CONSULTANTS

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WILLOUGHBY & VOSS

TECHNICAL STATEMENT
IN SUPPORT OF PROPOSED RULE MAKING
BY COTTON BROADCASTING
FOR KMIQ CH.283C3, ROBSTOWN, TEXAS

The firm of Willoughby & Voss has been retained by the Cotton Broadcasting, licensee of KMIQ, FCC File No. BLH-890822KA, to prepare the instant technical statement in support of a petition for rule making to amend the FM Table of Allotments by deleting Channel 283A (104.5 MHz) at Gregory, Texas, by deleting Channel 286A (105.1 MHz) at Robstown and by assigning Channel 283C3 to Robstown, Texas, as its third local aural service.

1. Section 1.420(g)(3) of the FCC's Rules specify that the Commission may modify the license of an FM station to another class in the course of rule making proceedings, if the modification occurs on a mutually exclusive higher class adjacent or co-channel. KMIQ is presently licensed to Channel 286A and is seeking Channel 283C3 (mutually exclusive third adjacent).

2. Also, Section 1.420(g)(1) specifies that the Commission may modify the license of an FM station to another class in the course of a rule making proceeding if there is no other timely filed expression of interest.

3. The allotment of Channel 283A at Gregory was made in Report & Order MM Docket 87-396 (effective 9-26-88). A construction permit was issued August 21, 1990, to Stuart Gaines Broadcasting Corp. The call letters KZDA were issued, however the facility was never built. The Federal Communications Commission canceled the outstanding KZDA construction permit on December 16, 1992, and there has apparently been no further interest expressed in the Gregory allotment. It is known that in most cases the Commission does not place great credence on economic issues, however, given the proximity of Corpus Christi, to Gregory, it is quite probable that a Gregory Class A allotment would not be economically viable. Whereas, KMIQ at Robstown is on the air and striving to serve the community in accordance with the intent of the Commission's desire to provide a diversity of voices in the community.

Channel 283A at Gregory does not have the ability to upgrade beyond Class A6 due to allocation considerations. The only clear site being off-shore, in the Gulf of Mexico. The population of Gregory is 2,438, 19.5% of Robstown population.

Although deletion would leave Gregory with no local service, that community is served by 20 aural signals from Corpus Christi, Texas, (14 miles away).

4. The reference allotment coordinates for the instant proposed rule making meets all Class C3 distance separation requirements of Section 73.207 of the Commission's Rules, with the exception to the vacant 283A allotment at Gregory, Texas, thus necessitating its deletion. The reference coordinates are:

27 degrees, 33 minutes, 39 seconds North Latitude

97 degrees, 38 minutes, 20 seconds West Longitude

Exhibit A is a tabulation of the allocation study. All spacing requirements to Mexican allotments meet the required separations as though the proposal was for a Class B facility. It is requested that Mexican concurrence be sought. These reference coordinates are 16.4 km (bearing 169.8 degrees True), from the Robstown, Texas, community coordinates. This site restriction is necessary to meet the distance separation requirements to KMXR Ch. 230C1 at Corpus Christi, Texas. This proposed facility will serve all of the community of Robstown with the required 3.16 mV/m contour.

5. The community of Robstown, Texas, is an incorporated municipality, having its own Mayor and city council, a police department and provides other services to its residents. The 1990 population for Robstown proper is 12,468 (five times greater than Gregory). Robstown has its own independent school district, library and newspaper. The allotment of Channel 283C3 to Robstown, Texas, will provide the community with a vital wide area outlet for local expression.

6. The instant proposal is mutually exclusive with the present assignment of KMIQ-FM Channel 286A at Robstown, Texas. The substitution of Channel 283C3 will continue to provide that community with a third local service, (two FM and one AM).

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7. In light of the above facts, and the desire of the Commission for efficient spectrum usage, it is requested that the Table of Allotments contained in Section 73.202(b) of the Commission's Rules be amended to read as follows:

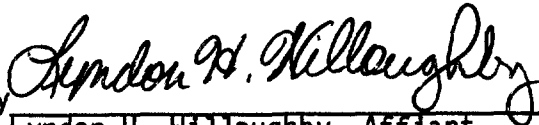
<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Gregory, TX	<u>283A</u>	<u>none</u>
Robstown, TX	260C1, <u>286A</u>	260C1, <u>283C3</u>

Upon allotment of the above requested changes, Cotton Broadcasting will make formal application for the respective facility.

CERTIFICATION

The foregoing was prepared on behalf of Cotton Broadcasting, by, or under the immediate supervision of Lyndon H. Willoughby, of Willoughby & Voss, San Antonio, Texas. The affiant's qualifications are contained in previous filings and are a matter of record with the Federal Communications Commission. The statements and data contained herein are true and correct of his own knowledge, except as to statements made on information and belief and as to those statements, he believes them to be true and correct.

December 8, 1993

By 
Lyndon H. Willoughby, Affiant

Technical Consultant to:
COTTON BROADCASTING (KMIQ)

WILLOUGHBY & VOSS

DISTANCE SEPARATION STUDY

FM Channel Study for Channel 283C3 at 27-33-39 97-38-20
 Safe Distance of 25.0 Kilometers
 New (6 kW) Class A spacings employed

***** STANDARD DISCLAIMER APPLIES *****

Channel	Call		City	State	Lat	Distance	Regrd
Applicant/Licensee					Long	Bearing	Clear
230C1	KMXR	LIC	Corpus Christi	, TX	27-46-50	24.35	24.0
	Twin W Communications, Inc.			256M	97-38- 3	1.10	0.35
230C1		USED	Corpus Christi	, TX	27-46-50	24.35	24.0
				OM	97-38- 3	1.10	0.35
281C		USED	Edinburg	, TX	26- 5-59	163.09	96.0
				OM	97-50-16	187.01	67.09
281A	KTNR	ADD	Kenedy	, TX	28-45-35	134.66	42.0
	Bennet Broadcasting, Inc.			OM	97-51-45	350.67	92.66
281A		VACANT	George West	, TX	28-20- 6	97.75	42.0
				OM	98- 6-54	331.47	55.75
281C	KBFM	LIC	Edinburg	, TX	26- 5-59	163.09	96.0
	May Communications, Inc.			305M	97-50-16	187.01	67.09
283C1	KZEPFM	LIC	San Antonio	, TX	29-25- 9	221.99	211.0
	Texas Lotus Corporation			201M	98-29- 6	338.29	10.99
283A		VACANT	Gregory	, TX	27-55-30	52.81	142.0
				OM	97-17-36	40.09	-89.19
283C3		VACANT	Ganado	, TX	28-57-50	198.51	153.0
				OM	96-22-52	38.15	45.51
283A			Playa Washington	, TA	25-56-45	185.26	175.0
				OM	97- 9-23	164.88	10.26
283A			Nuevo Laredo	, TA	27-29-48	184.02	175.0
				OM	99-30- 1	268.21	9.02
283C1		USED	San Antonio	, TX	29-25- 9	221.99	211.0
				OM	98-29- 6	338.29	10.99
285A		USED	Premont	, TX	27-22-19	58.28	42.0
				OM	98-11-21	249.08	16.28
285A		USED	Alamo	, TX	26-12-49	155.83	42.0
				OM	98- 5-21	196.79	113.83

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DISTANCE SEPARATION STUDY

FM Channel Study for Channel 283C3 at 27-33-39 97-38-20
Safe Distance of 25.0 Kilometers
New (6 kW) Class A spacings employed

***** STANDARD DISCLAIMER APPLIES *****

Channel Call	City	State	Lat	Distance	Reqr'd
Applicant/Licensee			Long	Bearing	Clear
=====					
285A KIBLFM LIC Beeville		, TX	28-23- 8	91.81	42.0
Lovelace Associates, Inc.		91M	97-43-42	354.52	49.81
3.00 kW					
285A KJAV LIC Alamo		, TX	26-12-49	155.83	42.0
Paulino Bernal		79M	98- 5-21	196.79	113.83
3.00 kW					
285A KMFM LIC Premont		, TX	27-22-19	58.28	42.0
Paulino Bernal		91M	98-11-21	249.08	16.28
3.00 kW					
286A VACANT Seadrift		, TX	28-24-54	131.68	42.0
		OM	96-42-30	43.83	89.68
0.00 kW					
286A USED Robstown		, TX	27-47-24	25.63	42.0
		OM	97-40-26	352.26	-16.37
0.00 kW					
286A KMIQ LIC Robstown		, TX	27-40-39	12.93	42.0
Cotton Broadcasting		91M	97-38-20	360.00	-29.07
3.00 kW					
286A Los Villarreales		, TA	26-13-54	177.78	65.0
		OM	98-38-29	214.30	112.78
0.00 kW					

